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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4

PROVISIONAL REPORT OF SPECIAL COMMISSION 4

(DRAFT REPORT OF THE PREPARATORY COMMISSION UNDER PARAGRAPH 10 OF RESOLUTION I CONTAINING RECOMMENDATIONS FOR SUBMISSION TO THE MEETING OF STATES PARTIES TO BE CONVENED IN ACCORDANCE WITH ANNEX VI, ARTICLE 4, OF THE CONVENTION REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA)

Addendum

(Final draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea)

(LOS/PCN/SCN.4/WP.6/Rev.2)

Explanatory note

1. The final draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea contained herein was prepared pursuant to the decision of Special Commission 4 (LOS/PCN/L.101, para. 5). It constitutes addendum 3 to document LOS/PCN/SCN.4/WP.15 (Draft Report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea), as referred to in the introductory note thereto, final paragraph. Pursuant to the decision of the Preparatory Commission, the Draft Report was reviewed and revised. The revision is titled "Provisional Report of Special Commission 4 (Draft Report of the Preparatory Commission under paragraph 10 of resolution I containing recommendations for submission to the Meeting of States Parties to be convened in accordance with Annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea)" (LOS/PCN/SCN.4/WP.16). The present paper constitutes Addendum 3 to LOS/PCN/SCN.4/WP.16, the Provisional Report of Special Commission 4.

2. The present working paper takes into account the deliberations of the Special Commission, commencing with its consideration of the draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea (LOS/PCN/SCN.4/WP.6), which was reviewed by the Special Commission during the seventh session (27 February-23 March 1989) and the 1989 summer meeting of the Preparatory Commission (14 August-1 September 1989). The discussions are reflected in the Chairman's summaries of discussions (LOS/PCN/SCN.4/L.13 and Add.1).

3. At the request of the Special Commission, the Secretariat prepared a revision of the draft in the light of the discussions, taking into account the matters on which there was agreement, the views expressed, the suggestions made by delegations, including drafting suggestions handed to the Secretariat, the texts proposed for specific provisions (LOS/PCN/SCN.4/1989/CRP.31 and 33-35) and the compromise texts to be provided by the Secretariat as requested in LOS/PCN/L.91, paragraph 10. The revised draft was issued as document LOS/PCN/SCN.4/WP.6/Rev.1 and Corr.1 and 2.

4. That revised draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea was reviewed at the ninth session (25 February-22 March 1991), at the 1991 summer meeting of the Preparatory Commission (12 to 30 August 1991) and at the tenth session (24 February-13 March 1992).

5. The present document incorporates the results of those discussions, and the agreements and understandings reached by the Special Commission and the draft texts proposed for specific provisions (LOS/PCN/SCN.4/1991/CRP.41-44). In the revision of the text, to the extent possible it has been harmonized with the final draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (LOS/PCN/SCN.4/WP.5/Rev.2).

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FINAL DRAFT PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

(Adopted by the Meeting of States Parties to the United Nations Convention on the Law of the Sea)

WHEREAS the United Nations Convention on the Law of the Sea provides for the establishment of the International Tribunal for the Law of the Sea in accordance with article 287, paragraph 1 (a), and the Statute of the Tribunal in annex VI thereof and

RECOGNIZING that the Tribunal shall enjoy in the territory of each State Party such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes and

RECOGNIZING ALSO that the Tribunal shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes and

WHEREAS the Statute of the Tribunal provides, in accordance with article 10 thereof, that the Members of the Tribunal, when engaged on the business of the Tribunal, shall enjoy diplomatic privileges and immunities and

RECOGNIZING that representatives of States Parties and of other parties to disputes or proceedings, officials and other functionaries of the Tribunal shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Tribunal;

CONSEQUENTLY the Meeting of States Parties to the Convention by a Resolution adopted on the ... approved the following Protocol and proposed it for accession by each State Party.

Article 1

Use of terms

For the purposes of this Protocol:

(a) "Convention" means the United Nations Convention on the Law of the Sea;

(b) "Statute" means the Statute of the International Tribunal for the Law of the Sea, annex VI of the Convention;

(c) "Rules" means the Rules of the International Tribunal for the Law of the Sea;

(d) "States Parties" means those States which have consented to be bound by the Protocol in accordance with article 24 thereof and for which the Convention is in force;

(e) "Tribunal" means the International Tribunal for the Law of the Sea;

(f) "Authority" means the International Seabed Authority;

(g) "Parties to proceedings" means States Parties, other States, entities other than States, the Authority, natural and juridical persons and sponsoring States or entities substituted for parties to proceedings in accordance with article 190 of the Convention;

(h) "Authorities of a State Party" means such authorities in the country of the State Party as may be appropriate in the context and in accordance with the laws, regulations and customs of that country, including the laws, regulations and customs of the local authorities involved;

(i) "Member" means an elected member of the Tribunal as referred to in article 2 of the Statute and article 2 of the Rules;

(j) "Member ad hoc" means a person chosen under article 17 of the Statute for the purpose of a particular case;

(k) "officials of the Tribunal" means the Registrar and other members of the staff of the Registry;

(l) "expert" means a person called at the instance of a party to a dispute or at the instance of the Tribunal to present testimony in the form of expert opinions, based on his special knowledge, skills, experience or training;

(m) "expert appointed under article 289 of the Convention" means a person appointed in accordance with that article to sit with the Tribunal;

(n) "functionary of the Tribunal" means any person referred to in articles 13, 14, 15 and 16 of this Protocol;

(o) "Vienna Convention" means the Vienna Convention on Diplomatic Relations of 18 April 1961.

Article 2

Juridical personality of the Tribunal

The Tribunal shall possess juridical personality. It shall have the capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property;

(c) to institute legal proceedings.

Article 3

Inviolability of the premises of the Tribunal

The premises of the Tribunal shall be inviolable.

Article 4

Immunity of the Tribunal, its property, assets and funds

1. The Tribunal shall enjoy immunity from legal process, except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

2. The property, assets and funds of the Tribunal, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, seizure, expropriation or any other form of interference, whether by executive, administrative, judicial or legislative enforcement action.

3. The property and assets of the Tribunal shall be exempt from restrictions, regulations, controls and moratoria of any nature.

4. The immunities referred to in this article shall not extend to an action for damages arising from an accident involving a vehicle the use of which may have entailed the liability of the Tribunal to the extent that those damages are not recoverable from insurance. Pursuant to the laws and regulations of the host country, or the transit State, the Tribunal shall be required to have insurance coverage against third-party risks in respect of vehicles owned or operated by it.

Article 5

Archives

The archives and documents of the Tribunal shall be inviolable at all times and wherever they may be located.

Article 6

Exercise of the functions of the Tribunal outside the Headquarters

In the event that the Tribunal will sit and exercise its functions in accordance with article 1, paragraph 3, of the Statute:

(a) The State Party concerned shall provide the appropriate facilities in accordance with international practice, and upon request by the Tribunal the State Party shall, as soon as possible, conclude an arrangement with the Tribunal covering such matters;

(b) In the case where the State concerned is not a State Party, the Tribunal shall conclude with such State an arrangement concerning the provision of the appropriate facilities for the efficient exercise of its functions in accordance with international practice as well as the accord of privileges, immunities, facilities and prerogatives in accordance with this Protocol.

Article 7

Communications

1. For the purposes of its official communications, the Tribunal shall enjoy in the territory of each State Party treatment not less favourable than that which the State Party accords to any intergovernmental organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mails and the various forms of communications.

2. The Tribunal may use all appropriate means of communications and make use of codes for its official communications. The States Parties shall not apply any censorship or any other form of interference of such communications.

3. The Tribunal shall have the right to dispatch and receive correspondence and other materials or communications by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

Article 8

Exemption from taxes, customs duties and import or export restrictions

1. The Tribunal, its assets, income and other property, and its operations and transactions shall be exempt from all direct taxes; it is understood, however, that the Tribunal shall not claim exemption from taxes which are no more than charges for public utility services.

2. The Tribunal shall be exempt from all customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Tribunal for its official use. Goods imported or purchased under such an exemption shall not be sold or otherwise disposed of in the territory of a State Party, except under conditions agreed with the Government of that State Party. The Tribunal shall also be exempt from all customs duties, prohibitions and restrictions on imports and exports in respect of its publications.

Article 9

Reimbursement of duties and/or taxes

The Tribunal shall not, as a general rule, claim exemption from duties and taxes which are included in the price of movable and immovable property and taxes paid for services rendered. Nevertheless, when the Tribunal for its official use makes major purchases of property and goods or services on which

duties and taxes are charged or are chargeable, States Parties shall make appropriate administrative arrangements for the reimbursement of the amount of duty and/or tax paid.

Article 10

Taxation

1. The salaries and emoluments paid to Members, Members ad hoc and the Registrar of the Tribunal shall be exempt from taxation in accordance with article 18, paragraph 8, of the Statute. The salaries and emoluments paid to the other officials of the Tribunal shall also be exempt from taxation consistent with the established practice of the United Nations. 1/

2. Where the incidence of any form of taxation depends upon residence, periods during which such Members or officials are present in a State for the discharge of their functions shall not be considered as periods of residence.

3. The Parties to this Protocol shall not be obliged to exempt from income tax pensions or annuities paid to former Members and former officials of the Tribunal.

Article 11

Funds and freedom from currency restrictions

1. Without being restricted by financial controls, regulations or financial moratoria of any kind, whilst carrying out its activities:

(a) the Tribunal may hold funds or currency of any kind and operate accounts in any currency;

(b) the Tribunal shall be free to transfer its funds or currency from one country to another or within any country and to convert any currency held by it into any other currency;

(c) the Tribunal may receive, hold, negotiate, transfer, convert or otherwise deal with bonds and other financial securities.

2. In exercising its rights under paragraph 1, the Tribunal shall pay due regard to any representations made by the Government of any State Party in so far as it is considered that effect can be given to such representations without detriment to the interests of the Tribunal.

1/ The Staff Regulations and Rules of the United Nations make provision for a staff assessment.

Article 12

Members and Members ad hoc of the Tribunal

1. Members of the Tribunal, while exercising their functions in the territory of each State Party, shall, pursuant to article 10 of the Statute, enjoy the privileges, immunities and facilities as are accorded to heads of diplomatic missions accredited to that country. Such treatment shall include the privileges, immunities, facilities and prerogatives accorded to diplomatic agents in accordance with the Vienna Convention and international law.

2. Members of the Tribunal and their spouses and dependent relatives forming part of their households, shall be accorded every facility for leaving the country where they may happen to be and for entering and leaving the country where the Tribunal is sitting. On journeys in connection with the exercise of their functions, they shall in all countries through which they may have to pass enjoy all the privileges, immunities and facilities granted by these countries to diplomatic agents.

3. Members of the Tribunal, when holding themselves at the disposal of the Tribunal for the exercise of their functions, their spouses and dependent relatives forming part of their household shall be accorded diplomatic privileges and immunities during the period of their residence in any country other than that of which they are nationals or permanent residents, provided that in their own country or in any country of which they are permanent residents they enjoy privileges, immunities and facilities to the extent admitted by such State. The States concerned, however, must exercise their jurisdiction over those persons in such a manner as not to interfere with the functions of the Tribunal.

4. In order to secure, for Members, complete freedom of speech and independence in the discharge of their functions, the immunity from legal process in respect of words spoken and written and all acts done by them in discharging their functions shall continue to be accorded, notwithstanding that the persons concerned are no longer Members of the Tribunal or performing those functions.

5. Members shall be given, together with their spouses and dependent relatives forming part of their household, the same repatriation facilities in time of international crises as diplomatic agents are given under the Vienna Convention and international law.

6. Privileges, immunities, facilities and prerogatives are accorded to the Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Tribunal.

7. The provisions of paragraphs 1 and 2 shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the State Party concerned.

8. This article shall apply to Members even after the expiry of their terms of office if they continue to exercise their functions, in accordance with article 5, paragraph 3, of the Statute. It shall also apply mutatis mutandis to Members ad hoc.

Article 13

Officials

1. Officials of the Tribunal shall enjoy in any country where they may be on the business of the Tribunal, or in any country through which they may pass on such business, such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions. They shall:

(a) be immune from any form of personal arrest, search or detention and from seizure of their personal baggage;

(b) be exempted from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the host country. An inspection in such a case shall be conducted in the presence of the official concerned;

(c) be immune from legal process in respect of words spoken or written and all acts performed by them while discharging their functions, which shall continue even after they have ceased to exercise their functions;

(d) be exempt from income tax on the salaries and emoluments paid to them by the Tribunal consistent with the established practice of the United Nations; 2/

(e) be immune from national service obligations;

(f) be exempted in respect of themselves and their spouses and dependent relatives forming part of their household from immigration restrictions or alien registration;

(g) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions to the Government concerned in accordance with international law and practice;

(h) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question and to re-export the same free of duty to their country of domicile;

2/ The Staff Regulations and Rules of the United Nations make provision for a staff assessment.

(i) be accorded, together with their spouses and dependent relatives forming part of their household, the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention and international law.

2. The Registrar and any official of the Tribunal, acting as Registrar, should, while on the business of the Tribunal, be accorded diplomatic privileges and immunities.

3. The Registrar shall specify the categories of officials to which the provisions of this article shall apply. He shall submit these categories to the Tribunal. These categories shall also be communicated to the Governments of all States Parties. The names of the officials included in these categories shall from time to time be communicated to the Governments of States Parties.

4. The provisions of paragraph 1 shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the State Party concerned.

Article 14

Experts appointed under article 289 of the Convention

1. Experts appointed under article 289 of the Convention shall be accorded, during the period of their missions, including the time spent on journeys in connection with their missions, such privileges and immunities as are necessary for the independent exercise of their functions. They shall be accorded:

(a) immunity from any form of personal arrest, search or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the host country. An inspection in such a case shall be conducted in the presence of the expert concerned;

(c) immunity from legal process of any kind in respect of words spoken or written and acts done by them while discharging their functions, which immunity shall continue even after they have ceased to exercise their functions;

(d) inviolability of documents and papers;

(e) exemption with respect to themselves, their spouses and dependent relatives forming part of their household, from immigration restrictions or alien registration;

(f) the same facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. Such experts shall be given, together with their spouses and dependent relatives forming part of their household, the same repatriation facilities in time of international crises as diplomatic agents are given under the Vienna Convention and international law.

Article 15

Agents representing parties, counsel and advocates designated to appear before the Tribunal

1. Agents representing parties to proceedings before the Tribunal as well as counsel and advocates designated to appear before it shall, without prejudice to paragraph 2, be accorded the privileges, immunities and facilities necessary for the independent exercise of their functions during their journey to and from the place where the Tribunal is sitting, and while exercising their functions. They shall be accorded:

(a) immunity from any form of personal arrest, search or detention and from seizure of their personal baggage;

(b) exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the host country. An inspection in such a case shall be conducted in the presence of the agent, counsel or advocate concerned;

(c) immunity from legal process of every kind in respect of words spoken and written and all acts done by them while discharging their functions as representatives of parties before the Tribunal, which immunity shall continue even after they have ceased to exercise their functions;

(d) inviolability of documents and papers;

(e) the right to receive papers or correspondence by courier or in sealed bags;

(f) exemption in respect of themselves and their spouses from immigration restrictions or alien registration;

(g) the same facilities in respect of their personal baggage and in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(h) the same repatriation facilities in time of international crises as are accorded to diplomatic agents under the Vienna Convention and international law.

2. The representatives of State Parties who may be agents, counsel or advocates appearing before the Tribunal shall, notwithstanding anything to the contrary in paragraph 1, enjoy the privileges, immunities, facilities and

prerogatives which, in accordance with the Vienna Convention and international law, are accorded to diplomatic agents.

3. The provisions of paragraphs 1 and 2 shall be applicable irrespective of the relations existing between the Government of which such an individual is a national and the country in which such individual is present.

4. Upon receipt of notification from parties to proceedings before the Tribunal as to the appointment of an agent, counsel or advocate, a certification of the status of such representative shall be provided under the signature of the Registrar and limited to a period reasonably required for the proceedings.

5. The competent authorities of the State concerned shall accord the privileges, immunities, facilities and prerogatives of agents, counsel and advocates provided in this article upon production of the certification referred to in paragraph 4.

6. Where the incidence of any form of taxation depends upon residence, periods during which such agents, counsel or advocates are present in a State for the discharge of their functions shall not be considered as periods of residence.

Article 16

Witnesses, experts and persons performing missions

1. Witnesses, experts and persons performing missions by order of the Tribunal shall be accorded, during the period of their mission, including the time spent on journeys in connection with their missions, the privileges, immunities and facilities necessary for the independent exercise of their functions. They shall be accorded the privileges, immunities and facilities accorded to experts appointed under article 289 of the Convention, as provided in article 14, paragraph 1, subparagraphs (a) to (f).

2. Witnesses, experts and such persons shall be provided with repatriation facilities in time of international crises.

Article 17

Respect for laws and regulations

Without prejudice to their privileges and immunities, it is the duty of all persons referred to in articles 12 to 16 to respect the laws and regulations of the State Party in whose territory they exercise official functions. They also have a duty not to interfere in the internal affairs of that State.

Article 18

Waiver

1. Privileges and immunities are accorded to persons referred in articles 13 to 16 not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Tribunal.

2. A State Party not only has the right but is under a duty to waive the immunity of its representatives referred to in article 15, paragraph 2, in any case where in the opinion of the State the immunity would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

3. The right and the duty to waive immunity of representatives of parties to proceedings before the Tribunal who may be agents, counsel or advocates appearing before the Tribunal and witnesses or experts appearing at the instance of such parties, other than diplomatic agents of a State Party, shall lie with the Tribunal, after considering the case of the individual concerned, by a unanimous decision of its available Members, and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded. The Tribunal shall consult with the party that appointed such person or at whose instance the person appears before taking a decision.

4. The right and the duty to waive immunity of the Registrar or Deputy Registrar when acting as Registrar and of experts appointed under article 289 of the Convention, shall lie with the Tribunal, after considering the case of the individual concerned, by a unanimous decision of its available members, and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded. In the case of agents, counsel or advocates referred to in this article, the Tribunal shall consult with the party appointing such person before taking a decision.

5. The right and the duty to waive immunity of witnesses appearing at the instance of, and experts and persons performing missions by order of the Tribunal, shall lie with the Tribunal, after considering the case of the individual concerned, by a unanimous decision of its available Members, and where, in its opinion, the immunity is not directly related to or incidental to the performance of official functions and would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

6. The right and the duty to waive immunity of the Deputy Registrar or other officials of the Tribunal and members of their households, shall lie with the Registrar, with the President's approval and after considering the case of the individual concerned, and where, in the Registrar's opinion, the immunity is not directly related to or incidental to the performance of official functions and

would impede the course of justice and it can be waived without prejudice to the administration of justice by the Tribunal and the purpose for which the immunity is accorded.

Article 19

Laissez-passer*

1. The Tribunal may issue laissez-passer to the Members and officials of the Tribunal. These laissez-passer shall be recognized and accepted as valid travel documents by the authorities of States Parties, taking into account the provisions of paragraph 2.

2. Applications for visas (where required) from the Members of the Tribunal and the Registrar shall be dealt with as speedily as possible. Applications from all other holders of laissez-passer issued by the Tribunal and from persons referred to in articles 14, 15 and 16, when accompanied by a certificate that they are travelling on the business of the Tribunal, shall be dealt with as speedily as possible.

Article 20

Freedom of movement

No administrative or other restrictions shall be imposed on the free movement of Members of the Tribunal, and other persons referred to in articles 12 to 16 of this Protocol, to and from the Headquarters of the Tribunal or the place where the Tribunal is sitting or exercising its functions.

Article 21

Maintenance of security and public order

1. If the State Party concerned considers it necessary to take, without prejudice to the independent and proper working of the Tribunal, precautions necessary for the security or for the maintenance of public order of the State Party in accordance with the norms of international law, it shall approach the Tribunal as rapidly as circumstances allow in order to determine by mutual agreement the measures necessary to protect the Tribunal.

2. The Tribunal shall cooperate with the Government of such State Party to avoid any prejudice to the security of the State Party resulting from its activities.

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* In the event that arrangements are entered into with the United Nations for the issuance of laissez-passer of the United Nations, the Tribunal may not need to issue its own laissez-passer.

Article 22

Cooperation with the authorities of States Parties

The Tribunal shall cooperate at all times with the appropriate authorities of States Parties to facilitate the execution of their laws, including the observance of security regulations, and to prevent any abuse in connection with the privileges, immunities and facilities mentioned in this Protocol.

Article 23

Settlement of disputes

1. The Tribunal shall make suitable provisions for the proper settlement of:

(a) disputes arising out of contracts and other disputes of a private law character to which the Tribunal is a party;

(b) disputes involving any functionary of the Tribunal who by reason of his official position enjoys immunity, if such immunity has not been waived in accordance with article 18, paragraphs 3 to 6.

2. All differences arising out of the interpretation or application of this Protocol shall be referred to an arbitral tribunal in accordance with the following procedure unless the parties have agreed to another mode of settlement. If a difference arises between the Tribunal on the one hand and a State Party on the other hand, which is not settled by consultation, negotiation or other agreed mode of settlement within three months following such a request by one of the parties to the difference, it shall at the request of either party be referred for final decision to a panel of three arbitrators: one to be chosen by the Tribunal, one to be chosen by the State Party, and the third, who shall be Chairman of the panel, to be chosen by the first two arbitrators. If either party has failed to make its appointment of an arbitrator within two months of the appointment of an arbitrator by the other Party, the Secretary-General of the United Nations shall make such appointment. Should the first two arbitrators fail to agree upon the appointment of the third member within three months following the appointment of the first two arbitrators, the Chairman shall be chosen by the Secretary-General of the United Nations upon the request of the Tribunal or the State Party.

Article 24

Final provisions

1. This Protocol is open to every State Party to the Convention for accession.

2. Where a dispute has been submitted to the Tribunal in accordance with its Statute, any State other than a State Party which is a party to the dispute may, ad hoc for the purposes and duration of the proceedings relating thereto, become a party to this Protocol by the deposit of its instrument of accession.

3. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations who shall promptly transmit a copy thereof to the Registrar of the Tribunal. This Protocol shall come into force as regards each State Party on the date of deposit of each instrument of accession, it being understood that the provisions of the Protocol as applicable to States Parties shall apply mutatis mutandis to such State.

4. The Secretary-General of the United Nations shall inform all States Parties of the deposit of each instrument of accession.

5. It is understood that, when an instrument of accession is deposited on behalf of any State Party, the State Party will be in a position under its own law to give effect to the terms of this Protocol.

6. This Protocol shall continue in force as between the Tribunal and every State Party which has deposited an instrument of accession for so long as that State Party remains a State Party to the Convention, or until a revised Protocol has been approved by a meeting of States Parties and that State Party has become a party to the revised Protocol.

7. The Registrar may conclude with any State Party or States Parties supplementary agreements adjusting the provisions of this Protocol so far as that State Party or those States Parties are concerned. These supplementary agreements shall in each case be subject to the approval of a meeting of States Parties to the Convention.